

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

BAY STATE GAS COMPANY)))	D.T.E. 05-27
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REPLY BRIEF OF THE UNITED STEELWORKERS OF AMERICA, AFL-CIO/CLC

The United Steelworkers of America, AFL-CIO/CLC (“Union”) provides the following brief reply in response to Bay State Gas Company’s (“BSG”) initial brief. Because much of the substance of BSG’s Brief has already been addressed and effectively rebutted within the Union’s Initial Brief, the Union’s Reply brief is limited to two significant factual mischaracterizations made by BSG in its initial brief. Additionally, the Union renews its request that the Department’s order in this matter include minimum staffing levels and all other measures necessary to ensure the maintenance of service quality for BSG’s customers.

A. BSG did not increase staffing levels to improve service quality in a timely fashion, despite the Department assessments of penalties for CY 2000 and CY 2001.

On page fifteen of its Initial Brief, BSG baldly asserts that service quality performance was corrected by increasing staffing levels “before the test year in this proceeding, in part due to application of the Department’s service quality standards, and associated penalties.” *Id.* BSG’s service quality did in fact improve sometime after the Department assessed penalties for SQI non-compliance due to increased staffing. *See* BSG Response to UWUA 2-13(a). However, there is no necessary connection between the Department issuing penalties in 2000 and 2001 and BSG taking action to improve staffing levels. Penalties were assessed by the Department to BSG in 2000 and 2001, and BSG lost over 30% of its staff between 1999-2003. *See* BSG Response to

USWA 2-20(c),(d); Tr. at 1931; UWUA Ex. 4, at 33-4; BSG Response to USWA 2-6; BSG Response to UWUA 1-1. Yet, by the Company's own account, remedial hiring did not commence until spring 2003, over two years after BSG was assessed penalties for CY 2000. USWA Ex. 1, Attachment JA-1; Tr. at 1627. Further, the BSG Call Center did not consistently meet its SQIs on a month to month basis until October 2003.¹ Tr. at 1931; UWUA Ex. 4, at 33-4; BSG Response to USWA 2-6; BSG Response to UWUA 1-1, UWUA 2-13(a); BSG Response to AG 18-08 (CY 2003 and 2004 SQI Reports); *cf.* USWA-RR-3.

Thus, to suggest that BSG has acted in a timely fashion to improve staffing levels as a means to improve service quality or that it did so as part of a calculated reaction to the Department's assessment of penalties, is spurious at best.² The Company's above-quoted assertion is particularly problematic given the undisputed evidence on record that BSG's failure to meet appropriate staffing levels was due, in large part, to a hiring freeze instituted by NiSource between December 1, 2001 to sometime in Spring 2003. *See* USWA Ex. 1, Attachment JA-1; Tr. at 1627. This evidence reflects that the Company had little or no control over staffing even when it critically affected Call Center service quality over a period of years, and thus, was unable to take necessary action to achieve appropriate staffing, even in response to the Department's sanctions.³

¹ Significantly, this was only three months before the test year for this case commenced.

² Of course, in the interim, BSG did take a number of questionable, stop-gap measures at its Call Center to improve its SQIs and avoid penalties from the Department, including but not limited to the removal of at least one trunk line until sometime in 2002. Tr. at 2057-58. These practices are undisputed by BSG and are detailed at length in the Union's initial brief. *See Initial Brief of the United Steelworkers of America, AFL-CIO/CLC*, 10-13.

³ Further, the suggestion that the hiring freeze was due in any way to conditions internal to BSG, and "right-sizing" staffing due to new technology, is compromised by the fact that the hiring freeze was NiSource-wide, suggesting broader fiscal crises, and was executed concurrent with the fiscal crisis that arose from NiSource amassing significant debt resulting from NiSource's acquisition of Columbia Gas. UWUA Ex. 4, at 18.

B. The implementation of the IBM-NiSource Agreement will necessarily affect BSG's ability to maintain Call Center service quality.

BSG also insists that the agreement between NiSource and IBM “does not relieve Bay State of any of the obligations established by the Department to maintain customer service standards now or at any time in the future.” BSG Initial Brief at 15. Ostensibly, this statement is meant to imply that BSG will exercise appropriate oversight over IBM’s Call Center and ensure that IBM meets all customer service quality standards. Notwithstanding this statement, BSG proffered no evidence at hearing, in its rate petition, or in any of its responses to discovery requests that it was capable of meeting its service quality obligations under the IBM-NiSource Agreement. On the contrary, BSG President Bryant testified that neither he nor any BSG employee had reviewed the contract prior to its execution, nor had any substantive input on the development of service quality standards or staffing levels at IBM. Tr. at 3156-57; Tr. at 3208-09; Tr. at 3235. Moreover, BSG was not involved in negotiating any portion of the IBM-NiSource agreement, including BSG customer service representative training and service quality standards. Tr. at 197, 3214, 3217. Additionally, ample evidence was adduced that no BSG employee performed due diligence with regard to how IBM would staff or handle BSG calls at IBM’s Smithfield, PA call center, or how IBM had handled similar contracting jobs in the past. *See* Tr. at 3209-10; USWA-RR-11; USWA-RR-13. On these bases, it is abundantly clear that BSG has not taken any measures to ensure service quality if it elects to outsource its Springfield Call Center. Given the strong likelihood that BSG will elect to outsource and that the IBM-NiSource Agreement contemplates a complete reorganization and geographic relocation of all Call Center services,

with management not under the direct control of BSG, BSG's protestations of future accountability must be viewed skeptically, if not discounted altogether.

Second, assuming BSG outsources its Springfield Call Center under the IBM-NiSource Agreement, there will be an additional company, comprising multiple layers of managers and bureaucracy separating BSG management from ensuring service quality through appropriate staffing. Since NiSource and BSG merged in 1999, there is no dispute that NiSource has had effective control over all staffing decisions at BSG's Call Center. Tr. at 207-08, 212-13, 1654-56, 1686-91. As discussed above and in the Union's initial brief, during this period, BSG lost substantial staff at its Springfield Call Center and the Call Center's service quality indicators plummeted. See Tr. at 1931; UWUA Ex. 4, at 33-4; BSG Response to USWA 2-6; BSG Response to UWUA 1-1. The Springfield Call Center alone lost 51 employees. See BSG Response to USWA 2-6. Nonetheless, and despite requests by BSG management for additional staff, staffing levels did not begin to increase again until spring 2003, over three (3) years after the staffing crisis commenced. Tr. at 210-11; 1654-66. Based upon this undisputed historical record, it is abundantly clear that the Department's issuance of SQI penalties does not ensure that BSG will make necessary increases in staffing levels or otherwise promote greater service quality in a sustainable manner. The Department must step in to ensure appropriate staffing levels at BSG, as well as diligent enforcement of service quality standards. Otherwise, BSG's ability to account for service quality will become even more elusive.⁴

⁴ It should also be noted that BSG's statement that the IBM-NiSource Agreement is "intended to produce a higher level of customer service at lower costs" is simply untrue. *Id.* at 15. There is no dispute that the service quality standards required by the contract between IBM and NiSource under the Agreement are identical to those currently imposed by the Massachusetts DTE upon BSG.

Conclusion

For the reasons submitted herein in addition to those within the Union's Initial Brief, the USWA respectfully requests that any order by the Department approving BSG's PBR request include minimum staffing requirements and all other measures necessary to ensure the maintenance of service quality for BSG's customers and Massachusetts consumers generally.

Respectfully submitted,

UNITED STEELWORKERS OF AMERICA, AFL-
CIO/CLC

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CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2005, I caused a copy of the Reply Brief of the United Steelworkers of America, AFL-CIO/CLC to be served by e-mail and first class mail to Mary Cottrell and upon all listed on the official service list for this case.

 /s/ Nicole Horberg Decter
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